

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 1058

Introduced by Howard, 9.

Read first time January 21, 2010

Committee: Education

A BILL

1 FOR AN ACT relating to the Community College Foundation and
2 Equalization Aid Act; to amend sections 77-3442, 85-1416,
3 85-1418, 85-1503, 85-1511, 85-1517, 85-2201, 85-2202,
4 85-2203, 85-2215, 85-2221, 85-2222, 85-2223, and 85-2224,
5 Reissue Revised Statutes of Nebraska, and section 13-518,
6 Revised Statutes Supplement, 2009; to rename the act and
7 a fund; to redefine a term; to change provisions relating
8 to a formula; to harmonize provisions; to repeal the
9 original sections; and to declare an emergency.
10 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 13-518, Revised Statutes Supplement,
2 2009, is amended to read:

3 13-518 For purposes of sections 13-518 to 13-522:

4 (1) Allowable growth means (a) for governmental units
5 other than community colleges, the percentage increase in taxable
6 valuation in excess of the base limitation established under
7 section 77-3446, if any, due to improvements to real property as
8 a result of new construction, additions to existing buildings,
9 any improvements to real property which increase the value of
10 such property, and any increase in valuation due to annexation
11 and any personal property valuation over the prior year and (b)
12 for community colleges, (i) for fiscal years prior to fiscal year
13 2003-04 and after fiscal year 2004-05 until fiscal year 2007-08,
14 the percentage increase in excess of the base limitation, if
15 any, in full-time equivalent students from the second year to
16 the first year preceding the year for which the budget is being
17 determined, (ii) for fiscal year 2003-04 and fiscal year 2004-05,
18 the percentage increase in full-time equivalent students from the
19 second year to the first year preceding the year for which the
20 budget is being determined, and (iii) for fiscal year 2007-08 and
21 each fiscal year thereafter, community college areas may exceed the
22 base limitation to equal base revenue need calculated pursuant to
23 section 85-2223;

24 (2) Capital improvements means (a) acquisition of real
25 property or (b) acquisition, construction, or extension of any

1 improvements on real property;

2 (3) Governing body has the same meaning as in section
3 13-503;

4 (4) Governmental unit means every political subdivision
5 which has authority to levy a property tax or authority to
6 request levy authority under section 77-3443 except sanitary and
7 improvement districts which have been in existence for five years
8 or less and school districts;

9 (5) Qualified sinking fund means a fund or funds
10 maintained separately from the general fund to pay for acquisition
11 or replacement of tangible personal property with a useful life of
12 five years or more which is to be undertaken in the future but
13 is to be paid for in part or in total in advance using periodic
14 payments into the fund. The term includes sinking funds under
15 subdivision (13) of section 35-508 for firefighting and rescue
16 equipment or apparatus;

17 (6) Restricted funds means (a) property tax, excluding
18 any amounts refunded to taxpayers, (b) payments in lieu of property
19 taxes, (c) local option sales taxes, (d) motor vehicle taxes, (e)
20 state aid, (f) transfers of surpluses from any user fee, permit
21 fee, or regulatory fee if the fee surplus is transferred to fund a
22 service or function not directly related to the fee and the costs
23 of the activity funded from the fee, (g) any funds excluded from
24 restricted funds for the prior year because they were budgeted for
25 capital improvements but which were not spent and are not expected

1 to be spent for capital improvements, (h) the tax provided in
2 sections 77-27,223 to 77-27,227 beginning in the second fiscal year
3 in which the county will receive a full year of receipts, and (i)
4 any excess tax collections returned to the county under section
5 77-1776; and

6 (7) State aid means:

7 (a) For all governmental units, state aid paid pursuant
8 to sections 60-3,202 and 77-3523;

9 (b) For municipalities, state aid to municipalities
10 paid pursuant to sections 18-2605, 39-2501 to 39-2520, 60-3,190,
11 77-27,136, and 77-27,139.04 and insurance premium tax paid to
12 municipalities;

13 (c) For counties, state aid to counties paid pursuant
14 to sections 39-2501 to 39-2520, 60-3,184 to 60-3,190, and
15 77-27,137.03, insurance premium tax paid to counties, and
16 reimbursements to counties from funds appropriated pursuant to
17 section 29-3933;

18 (d) For community colleges, state aid to community
19 colleges paid under the Community College ~~Foundation~~ and
20 Equalization Aid Act;

21 (e) For natural resources districts, state aid to natural
22 resources districts paid pursuant to section 77-27,136;

23 (f) For educational service units, state aid appropriated
24 under sections 79-1241.01 to 79-1241.03; and

25 (g) For local public health departments as defined in

1 section 71-1626, state aid as distributed under section 71-1628.08.

2 Sec. 2. Section 77-3442, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 77-3442 (1) Property tax levies for the support of local
5 governments for fiscal years beginning on or after July 1, 1998,
6 shall be limited to the amounts set forth in this section except as
7 provided in section 77-3444.

8 (2)(a) Except as provided in subdivision (2)(e) of this
9 section, school districts and multiple-district school systems,
10 except learning communities and school districts that are members
11 of learning communities, may levy a maximum levy of one dollar and
12 five cents per one hundred dollars of taxable valuation of property
13 subject to the levy.

14 (b) For each fiscal year, learning communities may levy
15 a maximum levy for the general fund budgets of member school
16 districts of ninety-five cents per one hundred dollars of taxable
17 valuation of property subject to the levy. The proceeds from the
18 levy pursuant to this subdivision shall be distributed pursuant to
19 section 79-1073.

20 (c) Except as provided in subdivision (2)(e) of this
21 section, for each fiscal year, school districts that are members
22 of learning communities may levy for purposes of such districts'
23 general fund budget and special building funds a maximum combined
24 levy of the difference of one dollar and five cents on each one
25 hundred dollars of taxable property subject to the levy minus

1 the learning community levies pursuant to subdivisions (2)(b) and
2 (2)(g) of this section for such learning community.

3 (d) Excluded from the limitations in subdivisions (2)(a)
4 and (2)(c) of this section are amounts levied to pay for
5 sums agreed to be paid by a school district to certificated
6 employees in exchange for a voluntary termination of employment
7 and amounts levied to pay for special building funds and sinking
8 funds established for projects commenced prior to April 1, 1996,
9 for construction, expansion, or alteration of school district
10 buildings. For purposes of this subsection, commenced means any
11 action taken by the school board on the record which commits
12 the board to expend district funds in planning, constructing, or
13 carrying out the project.

14 (e) Federal aid school districts may exceed the maximum
15 levy prescribed by subdivision (2)(a) or (2)(c) of this section
16 only to the extent necessary to qualify to receive federal aid
17 pursuant to Title VIII of Public Law 103-382, as such title existed
18 on September 1, 2001. For purposes of this subdivision, federal
19 aid school district means any school district which receives ten
20 percent or more of the revenue for its general fund budget from
21 federal government sources pursuant to Title VIII of Public Law
22 103-382, as such title existed on September 1, 2001.

23 (f) For school fiscal year 2002-03 through school fiscal
24 year 2007-08, school districts and multiple-district school systems
25 may, upon a three-fourths majority vote of the school board of

1 the school district, the board of the unified system, or the
2 school board of the high school district of the multiple-district
3 school system that is not a unified system, exceed the maximum
4 levy prescribed by subdivision (2)(a) of this section in an amount
5 equal to the net difference between the amount of state aid that
6 would have been provided under the Tax Equity and Educational
7 Opportunities Support Act without the temporary aid adjustment
8 factor as defined in section 79-1003 for the ensuing school fiscal
9 year for the school district or multiple-district school system
10 and the amount provided with the temporary aid adjustment factor.
11 The State Department of Education shall certify to the school
12 districts and multiple-district school systems the amount by which
13 the maximum levy may be exceeded for the next school fiscal year
14 pursuant to this subdivision (f) of this subsection on or before
15 February 15 for school fiscal years 2004-05 through 2007-08.

16 (g) For each fiscal year, learning communities may levy a
17 maximum levy of two cents on each one hundred dollars of taxable
18 property subject to the levy for special building funds for member
19 school districts. The proceeds from the levy pursuant to this
20 subdivision shall be distributed pursuant to section 79-1073.01.

21 (h) For each fiscal year, learning communities may levy
22 a maximum levy of five cents on each one hundred dollars of
23 taxable property subject to the levy for elementary learning center
24 facilities and for up to fifty percent of the estimated cost for
25 capital projects approved by the learning community coordinating

1 council pursuant to section 79-2111.

2 (3) Community colleges may levy a maximum levy calculated
3 pursuant to the Community College ~~Foundation and Equalization Aid~~
4 Act on each one hundred dollars of taxable property subject to the
5 levy.

6 (4) (a) Natural resources districts may levy a maximum
7 levy of four and one-half cents per one hundred dollars of taxable
8 valuation of property subject to the levy.

9 (b) Natural resources districts shall also have the power
10 and authority to levy a tax equal to the dollar amount by which
11 their restricted funds budgeted to administer and implement ground
12 water management activities and integrated management activities
13 under the Nebraska Ground Water Management and Protection Act
14 exceed their restricted funds budgeted to administer and implement
15 ground water management activities and integrated management
16 activities for FY2003-04, not to exceed one cent on each one
17 hundred dollars of taxable valuation annually on all of the taxable
18 property within the district.

19 (c) In addition, natural resources districts located in
20 a river basin, subbasin, or reach that has been determined to
21 be fully appropriated pursuant to section 46-714 or designated
22 as overappropriated pursuant to section 46-713 by the Department
23 of Natural Resources shall also have the power and authority to
24 levy a tax equal to the dollar amount by which their restricted
25 funds budgeted to administer and implement ground water management

1 activities and integrated management activities under the Nebraska
2 Ground Water Management and Protection Act exceed their restricted
3 funds budgeted to administer and implement ground water management
4 activities and integrated management activities for FY2005-06, not
5 to exceed three cents on each one hundred dollars of taxable
6 valuation on all of the taxable property within the district for
7 fiscal year 2006-07 and each fiscal year thereafter through fiscal
8 year 2011-12.

9 (5) Any educational service unit authorized to levy a
10 property tax pursuant to section 79-1225 may levy a maximum levy of
11 one and one-half cents per one hundred dollars of taxable valuation
12 of property subject to the levy.

13 (6)(a) Incorporated cities and villages which are not
14 within the boundaries of a municipal county may levy a maximum levy
15 of forty-five cents per one hundred dollars of taxable valuation
16 of property subject to the levy plus an additional five cents per
17 one hundred dollars of taxable valuation to provide financing for
18 the municipality's share of revenue required under an agreement
19 or agreements executed pursuant to the Interlocal Cooperation Act
20 or the Joint Public Agency Act. The maximum levy shall include
21 amounts levied to pay for sums to support a library pursuant
22 to section 51-201, museum pursuant to section 51-501, visiting
23 community nurse, home health nurse, or home health agency pursuant
24 to section 71-1637, or statue, memorial, or monument pursuant to
25 section 80-202.

1 (b) Incorporated cities and villages which are within the
2 boundaries of a municipal county may levy a maximum levy of ninety
3 cents per one hundred dollars of taxable valuation of property
4 subject to the levy. The maximum levy shall include amounts paid
5 to a municipal county for county services, amounts levied to pay
6 for sums to support a library pursuant to section 51-201, a museum
7 pursuant to section 51-501, a visiting community nurse, home health
8 nurse, or home health agency pursuant to section 71-1637, or a
9 statue, memorial, or monument pursuant to section 80-202.

10 (7) Sanitary and improvement districts which have been in
11 existence for more than five years may levy a maximum levy of forty
12 cents per one hundred dollars of taxable valuation of property
13 subject to the levy, and sanitary and improvement districts which
14 have been in existence for five years or less shall not have
15 a maximum levy. Unconsolidated sanitary and improvement districts
16 which have been in existence for more than five years and are
17 located in a municipal county may levy a maximum of eighty-five
18 cents per hundred dollars of taxable valuation of property subject
19 to the levy.

20 (8) Counties may levy or authorize a maximum levy of
21 fifty cents per one hundred dollars of taxable valuation of
22 property subject to the levy, except that five cents per one
23 hundred dollars of taxable valuation of property subject to the
24 levy may only be levied to provide financing for the county's
25 share of revenue required under an agreement or agreements executed

1 pursuant to the Interlocal Cooperation Act or the Joint Public
2 Agency Act. The maximum levy shall include amounts levied to pay
3 for sums to support a library pursuant to section 51-201 or museum
4 pursuant to section 51-501. The county may allocate up to fifteen
5 cents of its authority to other political subdivisions subject
6 to allocation of property tax authority under subsection (1) of
7 section 77-3443 and not specifically covered in this section to
8 levy taxes as authorized by law which do not collectively exceed
9 fifteen cents per one hundred dollars of taxable valuation on any
10 parcel or item of taxable property. The county may allocate to
11 one or more other political subdivisions subject to allocation
12 of property tax authority by the county under subsection (1) of
13 section 77-3443 some or all of the county's five cents per one
14 hundred dollars of valuation authorized for support of an agreement
15 or agreements to be levied by the political subdivision for the
16 purpose of supporting that political subdivision's share of revenue
17 required under an agreement or agreements executed pursuant to the
18 Interlocal Cooperation Act or the Joint Public Agency Act. If an
19 allocation by a county would cause another county to exceed its
20 levy authority under this section, the second county may exceed
21 the levy authority in order to levy the amount allocated. Property
22 tax levies for costs of reassumption of the assessment function
23 pursuant to section 77-1340 or 77-1340.04 are not included in the
24 levy limits established in this subsection for fiscal years 2010-11
25 through 2013-14.

1 (9) Municipal counties may levy or authorize a maximum
2 levy of one dollar per one hundred dollars of taxable valuation
3 of property subject to the levy. The municipal county may allocate
4 levy authority to any political subdivision or entity subject to
5 allocation under section 77-3443.

6 (10) Property tax levies for judgments, except judgments
7 or orders from the Commission of Industrial Relations, obtained
8 against a political subdivision which require or obligate a
9 political subdivision to pay such judgment, to the extent such
10 judgment is not paid by liability insurance coverage of a
11 political subdivision, for preexisting lease-purchase contracts
12 approved prior to July 1, 1998, for bonded indebtedness approved
13 according to law and secured by a levy on property except as
14 provided in section 44-4317 for bonded indebtedness issued by
15 educational service units and school districts, and for payments by
16 a public airport to retire interest-free loans from the Department
17 of Aeronautics in lieu of bonded indebtedness at a lower cost to
18 the public airport are not included in the levy limits established
19 by this section.

20 (11) The limitations on tax levies provided in this
21 section are to include all other general or special levies
22 provided by law. Notwithstanding other provisions of law, the
23 only exceptions to the limits in this section are those provided by
24 or authorized by sections 77-3442 to 77-3444.

25 (12) Tax levies in excess of the limitations in this

1 section shall be considered unauthorized levies under section
2 77-1606 unless approved under section 77-3444.

3 (13) For purposes of sections 77-3442 to 77-3444,
4 political subdivision means a political subdivision of this state
5 and a county agricultural society.

6 (14) For school districts that file a binding resolution
7 on or before May 9, 2008, with the county assessors, county clerks,
8 and county treasurers for all counties in which the school district
9 has territory pursuant to subsection (7) of section 79-458, if the
10 combined levies, except levies for bonded indebtedness approved by
11 the voters of the school district and levies for the refinancing
12 of such bonded indebtedness, are in excess of the greater of (a)
13 one dollar and twenty cents per one hundred dollars of taxable
14 valuation of property subject to the levy or (b) the maximum
15 levy authorized by a vote pursuant to section 77-3444, all school
16 district levies, except levies for bonded indebtedness approved by
17 the voters of the school district and levies for the refinancing of
18 such bonded indebtedness, shall be considered unauthorized levies
19 under section 77-1606.

20 Sec. 3. Section 85-1416, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 85-1416 (1) Pursuant to the authority granted in
23 Article VII, section 14, of the Constitution of Nebraska and
24 the Coordinating Commission for Postsecondary Education Act, the
25 commission shall, in accordance with the coordination function of

1 the commission pursuant to section 85-1403, review and modify, if
2 needed to promote compliance and consistency with the comprehensive
3 statewide plan and prevent unnecessary duplication, the budget
4 requests of the governing boards.

5 (2)(a) At least thirty days prior to submitting to
6 the Governor their biennial budget requests pursuant to section
7 81-1113 and any major deficit appropriation requests pursuant
8 to instructions of the Department of Administrative Services,
9 the Board of Regents of the University of Nebraska and the
10 Board of Trustees of the Nebraska State Colleges shall each
11 submit to the commission an outline of its proposed operating
12 budget. The outline of its proposed operating budget or outline
13 of proposed state aid request shall include those information
14 summaries provided to the institution's governing board describing
15 the respective institution's budget for the next fiscal year or
16 biennium. The outline shall contain projections of funds necessary
17 for (i) the retention of current programs and services at current
18 funding levels, (ii) any inflationary costs necessary to maintain
19 current programs and services at the current programmatic or
20 service levels, and (iii) proposed new and expanded programs and
21 services. In addition to the outline, the commission may request
22 an institution to provide to the commission any other supporting
23 information to assist the commission in its budget review process.
24 An institution may comply with such requests pursuant to section
25 85-1417.

1 (b) On September 15 of each biennial budget request
2 year, the boards of governors of the community colleges or their
3 designated representatives shall submit to the commission outlines
4 of their proposed state aid requests pursuant to the Community
5 College ~~Foundation~~ and Equalization Aid Act.

6 (c) The commission shall analyze institutional budget
7 priorities in light of the comprehensive statewide plan, role and
8 mission assignments, and the goal of prevention of unnecessary
9 duplication. The commission shall submit to the Governor and
10 Legislature by October 15 of each year recommendations for approval
11 or modification of the budget requests together with a rationale
12 for its recommendations. The analysis and recommendations by the
13 commission shall focus on budget requests for new and expanded
14 programs and services and major statewide funding issues or
15 initiatives as identified in the comprehensive statewide plan.
16 If an institution does not comply with the commission's request
17 pursuant to subdivision (a) of this subsection for additional
18 budget information, the commission may so note the refusal
19 and its specific information request in its report of budget
20 recommendations. The commission shall also provide to the Governor
21 and the Appropriations Committee of the Legislature on or before
22 October 1 of each even-numbered year a report identifying public
23 policy issues relating to student tuition and fees, including
24 the appropriate relative differentials of tuition and fee levels
25 between the sectors of public postsecondary education in the state

1 consistent with the comprehensive statewide plan.

2 (3) At least thirty days prior to submitting to the
3 Governor their biennial budget requests pursuant to section
4 81-1113 and any major deficit appropriation requests pursuant to
5 instructions of the Department of Administrative Services, the
6 Board of Regents of the University of Nebraska and the Board of
7 Trustees of the Nebraska State Colleges shall each submit to the
8 commission information the commission deems necessary regarding
9 each board's capital construction budget requests. The commission
10 shall review the capital construction budget request information
11 and may recommend to the Governor and the Legislature modification,
12 approval, or disapproval of such requests consistent with the
13 statewide facilities plan and any project approval determined
14 pursuant to subsection (10) of section 85-1414 and to section
15 85-1415. The commission shall develop from a statewide perspective
16 a unified prioritization of individual capital construction budget
17 requests for which it has recommended approval and submit such
18 prioritization to the Governor and the Legislature for their
19 consideration. In establishing its prioritized list, the commission
20 may consider and respond to the priority order established by the
21 Board of Regents or the Board of Trustees in their respective
22 capital construction budget requests.

23 (4) Nothing in this section shall be construed to affect
24 other constitutional, statutory, or administrative requirements for
25 the submission of budget or state aid requests by the governing

1 boards to the Governor and the Legislature.

2 Sec. 4. Section 85-1418, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 85-1418 (1) No state warrant shall be issued by the
5 Department of Administrative Services or used by any public
6 institution for the purpose of funding any program or capital
7 construction project which has not been approved or which has
8 been disapproved by the commission pursuant to the Coordinating
9 Commission for Postsecondary Education Act. If state funding for
10 any such program or project cannot be or is not divided into
11 warrants separate from other programs or projects, the department
12 shall reduce a warrant to the public institution which includes
13 funding for the program or project by the amount of tax funds
14 designated by the Legislature which are budgeted in that fiscal
15 year by the public institution for use for the program or project.

16 (2) The department may reduce the amount of state aid
17 distributed to a community college area pursuant to the Community
18 College ~~Foundation~~ and Equalization Aid Act by the amount of funds
19 used by the area to provide a program or capital construction
20 project which has not been approved or which has been disapproved
21 by the commission.

22 (3) The district court of Lancaster County shall have
23 jurisdiction to enforce an order or decision of the commission
24 entered pursuant to the Coordinating Commission for Postsecondary
25 Education Act and to enforce this section.

1 (4) Any person or public institution aggrieved by a
2 final order of the commission entered pursuant to section 85-1413,
3 85-1414, 85-1415, or 85-1416 shall be entitled to judicial review
4 of the order. Proceedings for review shall be instituted by filing
5 a petition in the district court of Lancaster County within thirty
6 days after public notice of the final decision by the commission
7 is given. The filing of the petition or the service of summons
8 upon the commission shall not stay enforcement of such order. The
9 review shall be conducted by the court without a jury on the
10 record of the commission. The court shall have jurisdiction to
11 enjoin enforcement of any order of the commission which is (a)
12 in violation of constitutional provisions, (b) in excess of the
13 constitutional or statutory authority of the commission, (c) made
14 upon unlawful procedure, or (d) affected by other error of law.

15 (5) A party may secure a review of any final judgment of
16 the district court by appeal to the Court of Appeals. Such appeal
17 shall be taken in the manner provided by law for appeals in civil
18 cases and shall be heard de novo on the record.

19 Sec. 5. Section 85-1503, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 85-1503 For purposes of sections 85-1501 to 85-1540,
22 unless the context otherwise requires:

23 (1) Community college means an educational institution
24 operating and offering programs pursuant to such sections;

25 (2) Community college area means an area established by

1 section 85-1504;

2 (3) Board means the Community College Board of Governors
3 for each community college area;

4 (4) Full-time equivalent student means, in the aggregate,
5 the equivalent of a registered student who in a twelve-month period
6 is enrolled in (a) thirty semester credit hours or forty-five
7 quarter credit hours of classroom, laboratory, clinical, practicum,
8 or independent study course work or cooperative work experience or
9 (b) nine hundred contact hours of classroom or laboratory course
10 work for which credit hours are not offered or awarded. Avocational
11 and recreational community service programs or courses are not
12 included in determining full-time equivalent students or student
13 enrollment;

14 (5) Contact hour means an educational activity consisting
15 of sixty minutes minus break time and required time to change
16 classes;

17 (6) Credit hour means the unit used to ascertain the
18 educational value of course work offered by the institution to
19 students enrolling for such course work, earned by such students
20 upon successful completion of such course work, and for which
21 tuition is charged. A credit hour may be offered and earned in
22 any of several instructional delivery systems, including, but not
23 limited to, classroom hours, laboratory hours, clinical hours,
24 practicum hours, cooperative work experience, and independent
25 study. A credit hour shall consist of a minimum of: (a) Ten

1 quarter or fifteen semester classroom contact hours per term of
2 enrollment; (b) twenty quarter or thirty semester academic transfer
3 and academic support laboratory hours per term of enrollment; (c)
4 thirty quarter or forty-five semester vocational laboratory hours
5 per term of enrollment; (d) thirty quarter or forty-five semester
6 clinical or practicum contact hours per term of enrollment; or
7 (e) forty quarter or sixty semester cooperative work experience
8 contact hours per term of enrollment. An institution may include
9 in a credit hour more classroom, laboratory, clinical, practicum,
10 or cooperative work experience hours than the minimum required in
11 this subdivision. The institution shall publish in its catalog, or
12 otherwise make known to the student in writing prior to the student
13 enrolling or paying tuition for any courses, the number of credit
14 or contact hours offered in each such course. Such published credit
15 or contact hour offerings shall be used to determine whether a
16 student is a full-time equivalent student pursuant to subdivision
17 (4) of this section;

18 (7) Classroom hour means a minimum of fifty minutes
19 of formalized instruction on campus or off campus in which a
20 qualified instructor applying any combination of instructional
21 methods such as lecture, directed discussion, demonstration, or the
22 presentation of audiovisual materials is responsible for providing
23 an educational experience to students;

24 (8) Laboratory hour means a minimum of fifty minutes of
25 educational activity on campus or off campus in which students

1 conduct experiments, perfect skills, or practice procedures under
2 the direction of a qualified instructor;

3 (9) Clinical hour means a minimum of fifty minutes of
4 educational activity on campus or off campus during which the
5 student is assigned practical experience under constant supervision
6 at a health-related agency, receives individual instruction in the
7 performance of a particular function, and is observed and critiqued
8 in the repeat performance of such function. Adjunct professional
9 personnel, who may or may not be paid by the college, may be used
10 for the directed supervision of students and for the delivery of
11 part of the didactic phase of the experience;

12 (10) Practicum hour means a minimum of fifty minutes
13 of educational activity on campus or off campus during which
14 the student is assigned practical experiences, receives individual
15 instruction in the performance of a particular function, and is
16 observed and critiqued by an instructor in the repeat performance
17 of such function. Adjunct professional personnel, who may or
18 may not be paid by the college, may be used for the directed
19 supervision of the students;

20 (11) Cooperative work experience means an internship
21 or on-the-job training, designed to provide specialized skills
22 and educational experiences, which is coordinated, supervised,
23 observed, and evaluated by qualified college staff or faculty and
24 may be completed on campus or off campus, depending on the nature
25 of the arrangement;

1 (12) Independent study means an arrangement between an
2 instructor and a student in which the instructor is responsible
3 for assigning work activity or skill objectives to the student,
4 personally providing needed instruction, assessing the student's
5 progress, and assigning a final grade. Credit hours shall be
6 assigned according to the practice of assigning credits in similar
7 courses;

8 (13) Full-time equivalent student enrollment total means
9 the total of full-time equivalent students enrolled in a community
10 college in any fiscal year;

11 (14) General academic transfer course means a course
12 offering in a one-year or two-year degree-credit program, at
13 the associate degree level or below, intended by the offering
14 institution for transfer into a baccalaureate program. The
15 completion of the specified courses in a general academic transfer
16 program may include the award of a formal degree;

17 (15) Applied technology or occupational course means a
18 course offering in an instructional program, at the associate
19 degree level or below, intended to prepare individuals for
20 immediate entry into a specific occupation or career. The primary
21 intent of the institutions offering an applied technology or
22 occupational program shall be that such program is for immediate
23 job entry. The completion of the specified courses in an applied
24 technology or occupational program may include the award of a
25 formal degree, diploma, or certificate;

1 (16) Academic support course means a general education
2 academic course offering which may be necessary to support an
3 applied technology or occupational program;

4 (17) Class 1 course means an applied technology or
5 occupational course offering which requires the use of equipment,
6 facilities, or instructional methods easily adaptable for use in a
7 general academic transfer program classroom or laboratory;

8 (18) Class 2 course means an applied technology or
9 occupational course offering which requires the use of specialized
10 equipment, facilities, or instructional methods not easily
11 adaptable for use in a general academic transfer program classroom
12 or laboratory;

13 (19) Full-time equivalent student means a full-time
14 equivalent student subject to the following limitation: The number
15 of credit and contact hours which shall be counted by any community
16 college area in which a tribally controlled community college
17 is located shall include credit and contact hours awarded by
18 such tribally controlled community college to students for which
19 such institution received no federal reimbursement pursuant to the
20 Tribally Controlled Community College Assistance Act, 25 U.S.C.
21 1801;

22 (20) Full-time equivalent total means the total of all
23 full-time equivalents accumulated in a community college area in
24 any fiscal year;

25 (21) Reimbursable educational unit means a full-time

1 equivalent student multiplied by (a) for a general academic
2 transfer course or an academic support course, a factor of one, (b)
3 for a Class 1 course, a factor of one and fifty-hundredths, (c) for
4 a Class 2 course, a factor of two, (d) for a tribally controlled
5 community college general academic transfer course or academic
6 support course, a factor of two, (e) for a tribally controlled
7 community college Class 1 course, a factor of three, and (f) for a
8 tribally controlled community college Class 2 course, a factor of
9 four;

10 (22) Reimbursable educational unit total means the total
11 of all reimbursable educational units accumulated in a community
12 college area in any fiscal year;

13 (23) Special instructional term means any term which is
14 less than fifteen weeks for community colleges using semesters or
15 ten weeks for community colleges using quarters;

16 (24) Statewide reimbursable full-time equivalent total
17 means the total of all reimbursable full-time equivalents
18 accumulated statewide for the community college in any fiscal year;

19 (25) Tribally controlled community college means an
20 educational institution operating and offering programs pursuant
21 to the Tribally Controlled Community College Assistance Act, 25
22 U.S.C. 1801; and

23 (26) Tribally controlled community college state aid
24 amount means the quotient of the amount of state aid to be
25 distributed pursuant to the Community College ~~Foundation~~ and

1 Equalization Aid Act for the current fiscal year to a community
2 college area in which a tribally controlled community college is
3 located divided by the reimbursable educational unit total for such
4 community college area for the immediately preceding fiscal year,
5 with such quotient then multiplied by the average reimbursable
6 educational units derived pursuant to subdivision (19) of this
7 section for the immediately preceding fiscal year.

8 Sec. 6. Section 85-1511, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 85-1511 In addition to any other powers and duties
11 imposed upon the community college system or its areas, campuses,
12 or boards by the Community College ~~Foundation~~ and Equalization Aid
13 Act, sections 85-917 to 85-966 and 85-1501 to 85-1540, and any
14 other provision of law, each board shall:

15 (1) Have general supervision, control, and operation of
16 each community college within its jurisdiction;

17 (2) Subject to coordination by the Coordinating
18 Commission for Postsecondary Education as prescribed in the
19 Coordinating Commission for Postsecondary Education Act, develop
20 and offer programs of applied technology education, academic
21 transfer programs, academic support courses, and such other
22 programs and courses as the needs of the community college area
23 served may require. The board shall avoid unnecessary duplication
24 of existing programs and courses in meeting the needs of the
25 students and the community college area;

1 (3) Employ, for a period to be fixed by the board,
2 executive officers, members of the faculty, and such other
3 administrative officers and employees as may be necessary or
4 appropriate and fix their salaries and duties;

5 (4) Subject to coordination by the Coordinating
6 Commission for Postsecondary Education as prescribed in the
7 Coordinating Commission for Postsecondary Education Act, construct,
8 lease, purchase, purchase on contract, operate, equip, and maintain
9 facilities;

10 (5) Contract for services connected with the operation of
11 the community college area as needs and interest demand;

12 (6) Cause an examination and comprehensive audit of
13 the books, accounts, records, and affairs, including full-time
14 equivalent student enrollment totals, full-time equivalent totals,
15 and reimbursable educational unit totals as defined in section
16 85-1503, to be made annually covering the most recently completed
17 fiscal year. The audit of each area shall include the full-time
18 equivalent student enrollment totals, full-time equivalent totals,
19 and reimbursable educational unit totals for the three most
20 recently completed fiscal years which shall be used for calculation
21 of aid to the community college areas as prescribed in the
22 Community College ~~Foundation~~ and Equalization Aid Act. The audit
23 shall also include the county-certified property valuations for the
24 community college area for the three most recently completed fiscal
25 years which shall be used for calculation of aid to such community

1 college areas. Such examination and audit of the books, accounts,
2 records, and affairs shall be completed and filed with the Auditor
3 of Public Accounts and the Department of Administrative Services
4 on or before October 15 of each year. The examination and audit
5 of the full-time equivalent student enrollment totals, full-time
6 equivalent totals, and reimbursable educational unit totals shall
7 be completed and filed with the Auditor of Public Accounts and the
8 Department of Administrative Services on or before August 15 of
9 each year;

10 (7) Establish fees and charges for the facilities
11 authorized by sections 85-1501 to 85-1540. Each board may enter
12 into agreements with owners of facilities to be used for housing
13 regarding the management, operation, and government of such
14 facilities and may employ necessary employees to govern, manage,
15 and operate such facilities;

16 (8) Receive such gifts, grants, conveyances, and bequests
17 of real and personal property from public or private sources as
18 may be made from time to time, in trust or otherwise, whenever
19 the terms and conditions thereof will aid in carrying out the
20 community college programs as specified by law. Each board may
21 sell, lease, exchange, invest, or expend such gifts, grants,
22 conveyances, and bequests or the proceeds, rents, profits, and
23 income therefrom according to the terms and conditions thereof and
24 adopt and promulgate rules and regulations governing the receipt
25 and expenditure of such proceeds, rents, profits, and income,

1 except that acceptance of such gifts, grants, or conveyances shall
2 not be conditioned on matching state or local funds;

3 (9) Prescribe the courses of study for any community
4 college under its control and publish such catalogs and bulletins
5 as may be necessary;

6 (10) Grant to every student upon graduation or completion
7 of a course of study a suitable diploma, associate degree, or
8 certificate;

9 (11) Adopt and promulgate such rules and regulations
10 and perform all other acts as the board may deem necessary
11 or appropriate to the administration of the community college
12 area. Such rules and regulations shall include, but not be
13 limited to, rules and regulations relating to facilities, housing,
14 scholarships, discipline, and pedestrian and vehicular traffic on
15 property owned, operated, or maintained by the community college
16 area;

17 (12) Employ, for a period to be fixed by the board, an
18 executive officer for the community college area and, by written
19 order filed in its office, delegate to such executive officer
20 any of the powers and duties vested in or imposed upon it by
21 sections 85-1501 to 85-1540. Such delegated powers and duties may
22 be exercised in the name of the board;

23 (13) Acquire real property by eminent domain pursuant to
24 sections 76-701 to 76-724;

25 (14) Acquire real and personal property and sell, convey,

1 or lease such property whenever the community college area will
2 be benefited thereby. The sale, conveyance, or lease of any real
3 estate owned by a community college area shall be effective only
4 when authorized by an affirmative vote of at least two-thirds of
5 all the members of the board;

6 (15) Enter into agreements for services, facilities, or
7 equipment and for the presentation of courses for students when
8 such agreements are deemed to be in the best interests of the
9 education of the students involved;

10 (16) Transfer tribally controlled community college state
11 aid amounts to a tribally controlled community college located
12 within its community college area;

13 (17) Invest, after proper consideration of the
14 requirements for the availability of money, funds of the community
15 college in securities the nature of which individuals of prudence,
16 discretion, and intelligence acquire or retain in dealing with the
17 property of another;

18 (18) Establish tuition rates for courses of instruction
19 offered by each community college within its community college
20 area. Separate tuition rates shall be established for students who
21 are nonresidents of the State of Nebraska;

22 (19) Establish a fiscal year for the community college
23 area which conforms to the fiscal year of the state; and

24 (20) Exercise any other powers, duties, and
25 responsibilities necessary to carry out sections 85-1501 to

1 85-1540.

2 Sec. 7. Section 85-1517, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 85-1517 (1) The board may certify to the county board of
5 equalization of each county within the community college area a
6 tax levy not to exceed the maximum levy calculated pursuant to the
7 Community College ~~Foundation~~ and Equalization Aid Act on each one
8 hundred dollars on the taxable valuation of all property subject to
9 the levy within the community college area, uniform throughout such
10 area, for the purpose of supporting operating expenditures of the
11 community college area.

12 (2) (a) In addition to the levies provided in subsection
13 (1) of this section and this subsection, the board may certify
14 to the county board of equalization of each county within the
15 community college area a tax levy of not to exceed one cent on each
16 one hundred dollars on the taxable valuation of all property within
17 the community college area, uniform throughout such area, for the
18 purpose of establishing a capital improvement fund and bond sinking
19 fund as provided in section 85-1515.

20 (b) In addition to the levies provided in subsection (1)
21 of this section and this subsection, the board may also certify
22 to the county board of equalization of each county within the
23 community college area a tax levy on each one hundred dollars on
24 the taxable valuation of all property within the community college
25 area, uniform throughout such area, in the amount which will

1 produce funds only in the amount necessary to pay for funding
2 accessibility barrier elimination project costs and abatement
3 of environmental hazards as such terms are defined in section
4 79-10,110. Such tax levy shall not be so certified unless approved
5 by an affirmative vote of a majority of the board taken at a
6 public meeting of the board following notice and a hearing. The
7 board shall give at least seven days' notice of such public hearing
8 and shall publish such notice once in a newspaper of general
9 circulation in the area to be affected by the increase.

10 (c) In addition to the levies provided in subsection (1)
11 of this section and this subsection, the board of any community
12 college area whose valuation per full-time equivalent student was
13 less than eighty-two percent of the statewide average of all
14 community colleges for fiscal year 1997-98 may also certify to the
15 county board of equalization of each county within the community
16 college area a tax levy up to an additional one-half cent for each
17 of fiscal years 2005-06 and 2006-07, on each one hundred dollars on
18 the taxable valuation of all property within the community college
19 area, uniform throughout such area. Such tax levy shall not be so
20 certified unless approved by an affirmative vote of three-fourths
21 of the board taken at a public meeting of the board following
22 notice and a hearing. The board shall give at least seven days'
23 notice of such public hearing and shall publish such notice once in
24 a newspaper of general circulation in the area to be affected by
25 the increase.

1 (3) The levy provided by subdivision (2)(a) of this
2 section may be exceeded by that amount necessary to retire the
3 general obligation bonds assumed by the community college area or
4 issued pursuant to section 85-1515 according to the terms of such
5 bonds or for any obligation pursuant to section 85-1535 entered
6 into prior to January 1, 1997.

7 (4) The tax shall be levied and assessed in the same
8 manner as other property taxes and entered on the books of the
9 county treasurer. The proceeds of the tax, as collected, shall be
10 remitted to the treasurer of the board not less frequently than
11 once each month.

12 Sec. 8. Section 85-2201, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 85-2201 Sections 85-2201 to 85-2229 and section 11 of
15 this act shall be known and may be cited as the Community College
16 ~~Foundation and Equalization Aid Act.~~

17 Sec. 9. Section 85-2202, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 85-2202 The Community College ~~Foundation and Equalization~~
20 Aid Fund is created. The fund shall be used to provide state
21 aid to community college areas pursuant to the Community College
22 ~~Foundation and Equalization Aid Act.~~ Any money in the Community
23 College ~~Foundation and Equalization Aid Fund~~ available for
24 investment shall be invested by the state investment officer
25 pursuant to the Nebraska Capital Expansion Act and the Nebraska

1 State Funds Investment Act.

2 Sec. 10. Section 85-2203, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 85-2203 For purposes of the Community College ~~Foundation~~
5 ~~and~~ Equalization Aid Act, the definitions found in sections 85-2204
6 to 85-2220 and section 11 of this act apply.

7 Sec. 11. Section 85-2215, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 ~~85-2215 Reimbursable educational unit~~ Full-time
10 equivalent student need equals the amount calculated in subdivision
11 (2) (d) of section 85-2223.

12 Sec. 12. Section 85-2221, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 85-2221 Each community college area shall annually report
15 such data as necessary to carry out the Community College
16 ~~Foundation and~~ Equalization Aid Act to the Coordinating Commission
17 for Postsecondary Education. Each community college area shall
18 annually provide the commission with a reconciliation of the data
19 necessary to carry out the act with audited financial statement
20 information.

21 Sec. 13. Section 85-2222, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 85-2222 (1) The Legislature, in an effort to promote
24 quality postsecondary education and to avoid excessive and
25 disproportionate taxation upon the taxable property of each

1 community college area, may appropriate each biennium from such
2 funds as may be available an amount for aid and assistance to the
3 community colleges. The Legislature recognizes that education, as
4 an investment in human resources, is fundamental to the quality
5 of life and the economic prosperity of Nebraskans and that aid to
6 the community colleges furthers these goals. It is the intent of
7 the Legislature that such appropriations reflect the commitment
8 of the Legislature to join with local governing bodies in a
9 strong and continuing partnership to further advance the quality,
10 responsiveness, access, and equity of Nebraska's community colleges
11 and to foster high standards of performance and service so that
12 every citizen, community, and business will have the opportunity
13 to receive quality educational programs and services regardless
14 of the size, wealth, or geographic location of the community
15 college area or tribally controlled community college as defined
16 in section 85-1503 by which that citizen, community, or business
17 is served. Such funds so appropriated by the Legislature shall
18 be allocated, adjusted, and distributed to the community college
19 boards of governors as provided in the Community College Foundation
20 and Equalization Aid Act.

21 (2) The Department of Revenue shall certify aid amounts
22 pursuant to the act and report such amounts to the Department of
23 Administrative Services. The Department of Administrative Services
24 shall distribute the total of such appropriated and allocated funds
25 to the boards of governors in ten as nearly as possible equal

1 monthly payments between the fifth and twentieth day of each month
2 beginning in September of each year.

3 (3) The Department of Administrative Services shall
4 reduce the amount of the distribution to a board of governors
5 by the amount of funds used by the community college area to
6 provide a program or capital construction project as such term
7 is defined in section 85-1402 which has not been approved or has
8 been disapproved by the Coordinating Commission for Postsecondary
9 Education pursuant to the Coordinating Commission for Postsecondary
10 Education Act.

11 Sec. 14. Section 85-2223, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 85-2223 (1) The Department of Revenue shall annually
14 calculate the base revenue need for each community college area as
15 follows:

16 (a) For fiscal year 2008-09, base revenue need for each
17 community college area shall equal one plus the greater of zero
18 or the average annual percentage growth in full-time equivalent
19 ~~enrollments~~ students attributable to each community college area
20 for the most recent three fiscal years times the sum of (i) system
21 foundation need plus (ii) ~~reimbursable educational unit~~ full-time
22 equivalent student need plus (iii) the revenue remainder allowance
23 for each community college area. The average annual percentage
24 growth shall be calculated by taking the difference between the
25 three-year full-time equivalent ~~enrollment~~ student average for

1 the current funding year and the three-year full-time equivalent
2 ~~enrollment~~ student average for the prior funding year and dividing
3 by the three-year full-time equivalent ~~enrollment~~ student average
4 from the prior funding year; and

5 (b) For fiscal year 2009-10 and each fiscal year
6 thereafter, base revenue need for each community college area
7 shall equal the greater of ninety-eight percent of the base revenue
8 need calculated in the prior year or one plus the greater of zero
9 or the average annual percentage growth in full-time equivalent
10 ~~enrollments~~ students attributable to each community college area
11 times the sum of (i) system foundation need plus (ii) ~~reimbursable~~
12 ~~educational unit~~ full-time equivalent student need plus (iii) the
13 average revenue remainder allowance. The average annual percentage
14 growth shall be calculated by taking the difference between the
15 three-year full-time equivalent ~~enrollment~~ student average for
16 the current funding year and the three-year full-time equivalent
17 ~~enrollment~~ student average for the prior funding year and dividing
18 by the three-year full-time equivalent ~~enrollment~~ student average
19 from the prior funding year.

20 (2) For purposes of the calculation required pursuant to
21 this section:

22 (a) Average need adjustment shall be calculated for
23 fiscal year 2007-08 aid distribution as follows: Average need
24 adjustment shall equal the sum of average adjusted revenue
25 per full-time equivalent student minus the adjusted revenue

1 per full-time equivalent student times the number of full-time
2 equivalent students attributable to each community college area
3 up to the number of full-time equivalent students attributable to
4 the community college area with the fewest number of full-time
5 equivalent students, except that the amount shall not be less than
6 negative seven hundred fifty thousand or greater than seven hundred
7 fifty thousand. For purposes of the average need adjustment, (i)
8 adjusted revenue per full-time equivalent student equals the sum
9 of the prior year revenue for each community college area minus
10 the system foundation need divided by the number of full-time
11 equivalent students for each community college area and (ii)
12 average adjusted revenue per full-time equivalent student equals
13 the sum of the prior year revenue for all community college areas
14 minus the system foundation need for all areas divided by the
15 number of full-time equivalent students for all areas;

16 (b) Average revenue remainder allowance shall equal
17 the average revenue remainder per ~~reimbursable educational~~
18 ~~unit~~ full-time equivalent student times the average number of
19 ~~reimbursable educational units~~ full-time equivalent students for
20 each community college area for the most recent three fiscal years;

21 (c) Average revenue remainder per ~~reimbursable~~
22 ~~educational unit~~ full-time equivalent student equals the revenue
23 remainder allowance for all community college areas divided by
24 the average number of ~~reimbursable educational units~~ full-time
25 equivalent students in all community college areas for the most

1 recent three fiscal years;

2 (d) ~~Reimbursable educational unit~~ Full-time equivalent
3 student need for each community college area equals the product
4 of the state foundation amount times forty percent divided by the
5 total ~~reimbursable educational units~~ full-time equivalent students
6 of all community college areas times the number of ~~reimbursable~~
7 ~~educational units~~ full-time equivalent students attributable to
8 each community college area;

9 (e) Revenue remainder allowance equals the formula base
10 revenue attributable to each community college area minus the
11 sum of system foundation need plus ~~reimbursable educational unit~~
12 full-time equivalent student need;

13 (f) State foundation amount equals formula base revenue
14 times the state foundation percentage;

15 (g) System foundation need for each community college
16 area equals the product of the state foundation amount times sixty
17 percent divided by the number of community college areas;

18 (h) Funding year, for purposes of calculating average
19 annual percentage growth, means the fiscal year for which aid is
20 being calculated; and

21 (i) Three-year full-time equivalent ~~enrollment~~ student
22 average for any given funding year equals the sum of the
23 audited full-time equivalent ~~enrollment~~ students for the three
24 years preceding the funding year divided by three.

25 Sec. 15. Section 85-2224, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 85-2224 (1) The Department of Revenue shall calculate
3 local effort rate by dividing the sum of (a) the total of base
4 revenue need for all community college areas minus (b) the amount
5 appropriated by the Legislature pursuant to the Community College
6 ~~Foundation and Equalization Aid Act~~ minus (c) the total formula
7 tuition and fees for all community college areas by the total
8 taxable valuation from the most recent Certificate of Taxes Levied
9 required under section 77-1613.01 for all community college areas
10 times one hundred.

11 (2) The department shall calculate the formula resources
12 available to each community college area by adding the yield from
13 local effort rate plus local formula tuition and fees.

14 (3) For purposes of the calculation required pursuant to
15 this section:

16 (a) The yield from local effort rate for each community
17 college area equals the local effort rate times the total taxable
18 valuation certified to each community college area pursuant to
19 the most recent Certificate of Taxes Levied required under section
20 77-1613.01 divided by one hundred; and

21 (b) Local formula tuition and fees equals tuition and
22 fees attributable to each community college area that were reported
23 on the accrual basis of accounting in the fiscal year prior to the
24 fiscal year for which aid is to be calculated.

25 Sec. 16. Original sections 77-3442, 85-1416, 85-1418,

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1 85-1503, 85-1511, 85-1517, 85-2201, 85-2202, 85-2203, 85-2215,
2 85-2221, 85-2222, 85-2223, and 85-2224, Reissue Revised Statutes of
3 Nebraska, and section 13-518, Revised Statutes Supplement, 2009,
4 are repealed.

5 Sec. 17. Since an emergency exists, this act takes effect
6 when passed and approved according to law.